United Nations A/71/1016–S/2017/556

General Assembly
Security Council

Distr.: General
10 August 2017

Original: English

General Assembly
Seventy-first session
Agenda items 13 and 117

Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields

Follow-up to the outcome of the Millennium Summit

Security Council
Seventy-second year

Implementing the responsibility to protect: accountability for prevention

Report of the Secretary-General

Summary

There is a gap between our stated commitment to the responsibility to protect and the daily reality confronted by populations exposed to the risk of genocide, war crimes, ethnic cleansing and crimes against humanity. To close that gap, we must ensure that the responsibility to protect is implemented in practice. One of the principal ways in which we can do so is by strengthening accountability for the implementation of the responsibility to protect and by ensuring rigorous and open scrutiny of practice, based on agreed principles. Accountability ties authorities to their populations and individual States to the international community. In the present report practical steps that can be taken by Member States, intergovernmental bodies and the United Nations system to strengthen accountability for the prevention of atrocity crimes are outlined. First, the relationship between the legal, moral and political responsibilities associated with the responsibility to protect and different forms of accountability are outlined. Then steps are identified that can be taken to strengthen accountability for the prevention of atrocity crimes at the national level, to enhance the role of intergovernmental bodies and to improve the accountability of the United Nations system to those it serves.

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I. Introduction

1. I prioritize prevention, as I believe all of us should. By prevention, I mean doing everything we can to help States to avert the outbreak of the crises that take such a high toll on humanity. Of course, atrocity crimes impose a particularly heavy toll on humanity and their prevention is at the heart of my overall prevention agenda.

2. The international community recognizes that States have the primary responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.[1] We also recognize that there is a collective responsibility to encourage and assist States to fulfil their primary responsibility and to use diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter of the United Nations, to protect populations from atrocity crimes. Should peaceful means be inadequate and national authorities manifestly fail to protect their populations, Member States have stated that they are prepared to take collective action, in a timely and decisive manner, in accordance with the Charter, including Chapter VII. That was agreed when all Heads of State and Government adopted the World Summit Outcome in 2005.[2] It has been reaffirmed many times since. The Security Council has adopted more than 50 resolutions that refer to the responsibility to protect and has reaffirmed the principle at least six times. It has reminded Governments of their primary responsibility to protect,[3] urged national authorities to ensure accountability for violations of international human rights and humanitarian law, and has twice mandated peace operations to support host Governments to fulfil their responsibility to protect.[4] In 2009, the General Assembly reaffirmed its intention to continue consideration of the concept (see resolution 63/308). More than 100 Member States have actively contributed to the ongoing consideration by the General Assembly of the responsibility to protect during eight informal and interactive dialogues since 2009. They have used those opportunities to clarify the principle, reaffirm their commitment to it, share experiences and lessons learned, and outline the steps needed to make the responsibility to protect a reality everywhere. The Human Rights Council has adopted more than 20 resolutions that refer to the responsibility to protect. In 2016, it called upon all Member States to work to prevent potential situations that could result in atrocity crimes and, where relevant, to address the legacy of past atrocities to prevent recurrence (see resolution 33/19).

3. Beyond the United Nations, an increasing number of regional and subregional arrangements have indicated their commitment to the responsibility to protect (see A/65/877-S/2011/393). Fifty-nine Member States from every region of the world and the European Union have now appointed a senior official to act as a national focal point on the responsibility to protect. Argentina, Costa Rica, Denmark, Switzerland and the United Republic of Tanzania, together with civil society organizations, have established the Global Action against Mass Atrocity Crimes initiative. The Latin American Network for Genocide and Mass Atrocity Prevention and the International Conference on the Great Lakes Region also constitute

[1] The term "atrocity crimes" is used only to refer to the four acts specified in paragraph 138 of the 2005 World Summit Outcome (General Assembly resolution 60/1). Genocide, war crimes and crimes against humanity are defined in international criminal law, including in articles 5-8 of the Rome Statute of the International Criminal Court. Ethnic cleansing, while not established as a distinct crime, includes acts that can amount to one of these crimes, in particular genocide and crimes against humanity.

[2] See World Summit Outcome, paras. 138-140.

[3] See Security Council resolutions 2348 (2017), 2339 (2017), 2332 (2016), 2327 (2016), 2317 (2016), 2295 (2016), 2288 (2016), 2277 (2016), 2095 (2013) and 2014 (2011).

[4] See Security Council resolutions 2085 (2012) and 1996 (2011).

important regional venues to advance the prevention of atrocities. Civil society is also playing an active role and has established several regional networks for atrocity prevention, which seek to strengthen the resilience of their communities.

4. The consensus on the purposes of the responsibility to protect spans every continent. There is no longer any question that the protection of populations from atrocity crimes is both a national and an international responsibility, which is universal and enduring. However, too often we still fail to take the necessary steps to prevent such crimes and protect populations at risk. The number of civilians subjected to atrocity crimes, including women and children, has increased significantly over the past few years. We have seen increasing violations of human rights and international humanitarian law. That has contributed to a refugee crisis on a scale not seen since the end of the Second World War. It is imperative that we put an end to these negative trends; indeed, we have a responsibility to do so.

5. Atrocity crimes have regional and international implications that extend well beyond national borders. The massive flows of refugees and internally displaced persons they generate create immense humanitarian and protection needs and put considerable pressure on host communities, Governments and the international community. Such crises have often strengthened calls for action, including military intervention, to protect populations, which raise difficult political and moral questions. The human and financial costs associated with the use of force when atrocity crimes have been committed are extremely high, the prospects and consequences always uncertain. In my remarks to the Security Council on 10 January 2017, I emphasized that we spend far more time and resources responding to crises than we do on preventing them. I explained that a new approach was needed, one that brings the prevention of atrocity crimes back to the fore and that closes the gap between commitment and reality. One of the principal ways in which we can do this is by strengthening accountability and ensuring the rigorous and open scrutiny of practice, in the light of agreed principles.

6. We already have some guidelines on how to make atrocity prevention a practical programme of action. The Human Rights Up Front action plan constitutes a major effort to achieve existing United Nations prevention mandates through cultural and operational change and engagement with Member States. It is intended to lead to improved early warning, efficiency, support for national authorities and internal accountability. The recent United Nations reviews of peace operations, of the peacebuilding architecture and of women, peace and security underscored the need for an overall shift of resources and priorities of the United Nations towards prevention. In General Assembly dialogues on the responsibility to protect, Member States have repeatedly made political commitments to support the prevention of atrocity crimes. In its resolution 2150 (2014), the Security Council called upon Member States to "recommit to prevent and fight against genocide, and other serious crimes under international law". The successful implementation of the 2030 Agenda for Sustainable Development recognizes that sustainable development depends on fostering peaceful, just and inclusive societies that are free from fear and all forms of violence which, in the worst case, includes atrocity crimes. The New York Declaration for Refugees and Migrants, adopted by the General Assembly in resolution 71/1, called on Member States to address the root causes of refugee movements and to prevent or reduce conflict by peaceful means. To make atrocity prevention a practical programme of action, however, there must be greater synergy among the three pillars of the United Nations system: human rights, peace and security and development.

7. The ongoing work of developing and implementing the responsibility to protect requires continuous, frank and inclusive dialogue. My Special Adviser on the Responsibility to Protect has consulted widely in preparing the present report.

Every Member State was invited to provide written contributions in response to a questionnaire, as were civil society organizations. Three preparatory panels were organized, two in New York and one in Geneva, to provide States with an opportunity to reflect on the issues, seek clarification and contribute their own insights. My Special Adviser has also engaged with individual Member States, networks such as the Global Network of the Responsibility to Protect Focal Points, the European Network of Focal Points, Parliamentarians for Global Action, global and regional networks of national human rights institutions and ombudspersons and other interested actors.

8. We must prioritize prevention, not just in word but also in deed. To meet this challenge, we must strengthen accountability for implementation of the responsibility to protect.

II. The responsibility to protect and accountability

9. As we turn towards implementation, precision is needed on who is responsible for the prevention of atrocity crimes, including national institutions and intergovernmental mechanisms, and how accountability can be achieved. Answering those questions will help to translate the responsibility to protect into an agenda for individual and collective action.

10. The responsibility to protect is based upon, and implemented through, existing national and international law, but it also reflects our moral responsibility for the prevention of atrocity crimes and the protection of populations. The unanimous adoption of the responsibility to protect by all Heads of State and Government in 2005, and its subsequent reaffirmation by the General Assembly and the Security Council, establishes political responsibility for atrocity prevention. Since the principle encompasses legal, moral and political responsibilities, so too must our approach to accountability.

11. Legal accountability relates to obligations under national and international law. Accountability for implementation of the responsibility to protect, however, goes beyond legal obligations and includes a moral and political dimension. Moral accountability challenges us to scrutinize whether we are living up to ethical standards. In national settings, political accountability refers to the relationship between Governments, parliaments and other statutory bodies and the populations they serve. Internationally, it refers to the need for those invested with authority and responsibility to be answerable to their peers. Each form of accountability involves different actors, institutions and mechanisms. They are united, however, by a common goal: to ensure that those with a responsibility for preventing atrocity crimes are held accountable for fulfilling that responsibility.

12. The primary responsibility of the State and its officials for the protection of populations from atrocity crimes under pillar one of the three-pillar strategy for implementation of the responsibility to protect is the cornerstone of that responsibility. It includes the prevention of atrocity crimes within the jurisdiction of the State. Under international human rights and humanitarian law, States have legal duties to refrain from committing violations of fundamental human rights, to protect individuals and groups from such violations and to take positive steps to ensure the fulfilment of rights. It is vital that States adopt and implement the core treaties of

international human rights law.[5] Most national constitutions and legal codes include provisions guaranteeing the fundamental rights of populations. States should also ensure that genocide, war crimes and crimes against humanity are prohibited in national law and that those laws are rigorously enforced. States also have an obligation to prevent and punish atrocity crimes and to promote compliance with the law. The obligations of States under conventional and customary law apply to all States and no derogation is permissible. The duty to prevent atrocity crimes is therefore a clear legal obligation for States.

13. The legal obligations of States extend to addressing the root causes of atrocity crimes, including persistent patterns of identity-based discrimination, economic deprivation and related disparities and weaknesses in State structures. The principal objective is the creation of State structures and institutions that are functioning and legitimate, respect human rights and the rule of law, deliver services equitably and can address or defuse sources of tension before they escalate.

14. National moral responsibility for the prevention of atrocity crimes stems from the broad range of universally shared values. Political responsibility, meanwhile, is narrower and arises from the explicit commitment States have made to the prevention of atrocity crimes, but also provides opportunities for clearer accountability mechanisms on both national and international levels. In committing themselves to the responsibility to protect in the 2005 World Summit Outcome, States made a bold promise. In paragraph 138, they recognized that: "Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means."

15. The collective responsibility to protect, as reflected in pillars two and three of the strategy, includes existing legal obligations to prevent atrocity crimes and to support others in doing so. All States have an extraterritorial obligation to take all reasonable measures to prevent genocide. They have an additional responsibility to raise the alarm when genocide is imminent or is being committed. In relation to war crimes, common article 1 of the 1949 Geneva Conventions points to an obligation not just to abide by the law but to "ensure respect" for the Conventions in all circumstances. The Charter of the United Nations imposes on States the obligation to "accept and carry out" decisions of the Security Council (Article 25). That would include decisions taken in response to the risk of atrocity crimes or to evidence of their commission. States parties to the Rome Statute of the International Criminal Court have a legal obligation to assist the Court, including by detaining and surrendering individuals indicted by it. Additional Protocol I (1977) to the Geneva Conventions established a duty for States parties to act, jointly or individually, in cooperation with the United Nations and in conformity with the Charter in situations of serious violations of the Geneva Conventions and Protocol (article 89). The Convention relating to the Status of Refugees and its 1967 Protocol requires States parties to respect the rights of and fulfil their obligations vis-à-vis refugees. The Arms Trade Treaty, among other things, prohibits the transfer of certain arms and items in situations where a State party "has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed

[5] In particular, the International Covenant on Civil and Political Rights and its Second Optional Protocol aiming at the abolition of the death penalty; the International Covenant on Economic, Social and Cultural Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women; and the International Convention on the Elimination of All Forms of Racial Discrimination.

against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a party" (article 6 (3)).

16. The moral responsibility of the international community to contribute to protecting populations from harm goes beyond genocide, war crimes, ethnic cleansing and crimes against humanity, and stems from our common humanity and solidarity. However, in addition to moral responsibility, the international community has a political responsibility to contribute to the prevention of those crimes under pillars two and three of the responsibility to protect.

17. Political responsibility stems from the commitments reflected in paragraphs 138 to 140 of the 2005 World Summit Outcome and subsequent resolutions referencing the responsibility to protect. As stated in paragraph 139, States have a collective responsibility "to use appropriate diplomatic, humanitarian and other peaceful means ... to help to protect populations" from atrocity crimes. The Security Council has special responsibilities. Article 24 (1) of the Charter of the United Nations confers on the Security Council the "primary responsibility for the maintenance of international peace and security." That responsibility stems from the call in the preamble of the Charter to "save succeeding generations from the scourge of war, which ... has brought untold sorrow to mankind." It is amplified by the responsibilities also set out in paragraph 139 of the 2005 World Summit Outcome, where Member States affirmed that they would be "prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter ... should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity".

III. States and national mechanisms

18. States are accountable first and foremost to the populations that live within their borders, but they may also be held accountable for compliance with their obligations stemming from international law. Compliance with those obligations is subject to review by intergovernmental or expert-led accountability mechanisms.[6] There are several steps that States can take to strengthen their accountability for atrocity prevention.

Ratify and implement the core instruments of international human rights and humanitarian law

19. Not all States have ratified or acceded to the most basic legal instruments relevant to the responsibility to protect. Forty-seven Member States have not yet become party to the Convention on the Prevention and Punishment of the Crime of Genocide. Twenty-eight Member States have yet to become party to Additional Protocols I and II to the 1949 Geneva Conventions, which extend protection obligations to situations of international and non-international armed conflict. Seventy-one Member States are still not party to the Rome Statute of the International Criminal Court, an important component of the struggle against impunity for atrocity crimes. Forty-nine Member States have not signed and ratified the Convention relating to the Status of Refugees and forty-eight Member States have not acceded to its 1967 Protocol. More than 60 Member States have not yet become parties to the Arms Trade Treaty. I strongly urge all Member States to sign, ratify and implement those instruments of international law that are necessary for the prevention of atrocity crimes.

[6] In addition, official capacity does not exempt a person from criminal responsibility, as provided, for example, under the Rome Statute of the International Criminal Court (article 27).

Conduct periodic self-assessments to ascertain how national efforts to prevent atrocity crimes can be strengthened

20. As the primary responsibility to protect rests with national authorities, it is incumbent on those authorities to ensure that they have an accurate understanding of the sources of potential risk within their communities, the mechanisms and policies needed to reduce or mitigate those risks and the capacity to protect vulnerable populations, should the need arise. Under pillar two of the responsibility to protect, States can request international support when they do not have the necessary capacity, or where there are risks that cannot be addressed by them alone. I encourage all States to conduct a national assessment of risk and resilience, using the framework of analysis for atrocity crimes developed by my Special Advisers on the Prevention of Genocide and on the Responsibility to Protect.[7] That assessment should be regular, comprehensive and include the identification of vulnerable populations.

Existing national political accountability mechanisms can be utilized to support atrocity prevention

21. In most countries, national parliaments are the principal means by which Governments are held accountable. They provide valuable forums in which national policies and actions are scrutinized and debated. They create opportunities for civil society, the media and concerned individuals to engage directly with decision-makers and representatives, further enhancing accountability and increasing the national pool of talent contributing to the prevention of atrocity crimes. Parliaments should hold their Governments accountable for fulfilling their commitment to the responsibility to protect and the legal obligations on which that responsibility is based. That could be achieved by the establishment of an annual parliamentary debate on the implementation of the responsibility to protect and/or the establishment of all-party working groups or committees. Parliamentary processes could focus on national challenges and preventive actions (pillar one) and include consideration of resource allocation for atrocity prevention. They could also consider steps taken in fulfilment of the responsibilities relevant to pillars two and three of the responsibility to protect, such as international diplomacy, foreign assistance programmes, contributions to peacekeeping, human rights reporting and field missions, humanitarian action in situations where atrocity crimes are threatened and the protection of refugees fleeing from atrocity crimes. Mainstreaming atrocity prevention in national aid programmes is particularly important, since States can assist each other to meet their responsibilities through such programmes. Where funding for aid programmes is limited, States should prioritize support for those that can have the greatest impact on atrocity prevention.[8]

Integrate concerns about the prevention of atrocity crimes into the work of national human rights mechanisms

22. Over 120 Member States have formal domestic mechanisms for protecting and promoting international human rights standards, most including a national human rights institution and/or a national human rights ombudsperson. I strongly encourage those States that have not yet established such a mechanism to do so, to support implementation of their obligations under international human rights and

[7] Available at www.un.org/en/genocideprevention/documents/publications-and-resources/Framework%20of%20Analysis%20for%20Atrocity%20Crimes_EN.pdf.

[8] As a complement or alternative to parliamentary review, some States in Latin America and the Great Lakes region of Africa have established national mechanisms to address atrocity prevention.

humanitarian law. Most of the national mechanisms that exist comply with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), which set standards for their independent status and functioning. Those that do not yet comply with the Paris Principles should strive to do so. National human rights mechanisms can play a critical role in supporting atrocity prevention and should be better utilized. They can enhance transparency in risk assessment and measures taken or intended to be taken, by adding an authoritative yet independent voice to national deliberations. They can conduct their own risk assessment for atrocity crimes, identifying any protection gaps and recommending steps to close them. To achieve that, national human rights mechanisms should integrate concerns about atrocity prevention into their annual reporting to parliaments, Governments and the public, and in parliamentary debates. They could also include consideration of the prevention of atrocity crimes in the reports they prepare for United Nations human rights mechanisms and, when necessary, submit complaints or send information and analysis to those mechanisms. Many national human rights mechanisms are members of at least one global or regional network. Those networks offer an important opportunity for peer-to-peer exchange on the risks of atrocity crimes, prevention strategies and the challenges of implementation, which would encourage national action, facilitate the sharing of lessons and open opportunities for mutual support.

Guarantee the accountability of the security forces and those that control them

23. Legitimate and effective security forces are a prerequisite for the prevention of atrocity crimes and are thus a fundamental part of State capacity that must be accountable. National accountability mechanisms can ensure that personnel under the control of the State, especially the security forces, respect human rights and international humanitarian law and fulfil their responsibility to protect populations from violations within their jurisdiction. A clear chain of command facilitates transparency and accountability. In addition, the removal of statutory limitations, amnesties or immunities that obstruct the prosecution of State officials and other individuals responsible for atrocity crimes is compliant with international law and strengthens national legal frameworks for accountability. Ensuring the accountability of security forces and those that control them, including senior State officials and the judiciary, increases their capacity to serve as inhibitors of atrocity crimes. It also reduces the likelihood of them contributing to the root causes of those crimes (see A/68/947-S/2014/449, paras. 43-58).

Ensure accountability and redress for past and present atrocity crimes

24. Ensuring accountability and redress for past and present atrocity crimes is crucial to assuring their non-recurrence. The primary responsibility to protect of each State entails a duty to investigate and prosecute alleged atrocity crimes, as established by international law, reinforcing the international criminal justice principle of complementarity between national jurisdictions and the International Criminal Court. I encourage States to ensure that those responsible for atrocity crimes in their territory are prosecuted. If they fail to do so, I encourage the international community to consider all legal options and practical steps to ensure justice for all victims and contribute to the prevention of future violations. In societies that have experienced atrocity crimes, a fair and inclusive transitional justice process can help prevent relapse into further violence or crimes. Transitional justice initiatives can encompass judicial and non-judicial mechanisms, including criminal investigations and prosecutions, reparations, truth-seeking and institutional and legal reform. They can address the root causes of tensions by promoting truth-telling and ensuring accountability and access to justice. Addressing past grievances and violations can help to restore the dignity of victims, acknowledge and facilitate

redress for violations and enable reconciliation. That is likely to help re-establish the rule of law and restore confidence in the State, promote stable and durable peace and deter further atrocity crimes.

Promote more open reflection on the risks of atrocity crimes, inhibitors and the actions necessary to strengthen prevention

25. Accountability for the prevention of atrocity crimes can be strengthened by open reflection and inclusive dialogue on national experiences and the practical steps needed to strengthen atrocity prevention. The perspectives of women and youth should be included in risk assessments and the design of measures to close atrocity prevention gaps. National focal points for the responsibility to protect can, in line with their political responsibility to promote the principle in their daily work and improve intragovernmental and intergovernmental efforts to prevent and halt atrocity crimes, push for effective atrocity prevention strategies through international dialogue with their counterparts. An active, diverse and robust civil society that can operate freely and openly without fear of harassment, persecution or reprisal also contributes to ensuring accountability. States should encourage and support civil society, including national media and academia, to hold Governments accountable for the prevention of atrocity crimes and facilitate open and transparent national discourse. Civil society, national media and academia make essential contributions to national dialogue and debate about atrocity prevention. For example, when national parliaments deliberate on reports provided by national human rights mechanisms, civil society can offer "shadow" reports, bringing in otherwise diverse perspectives from different parts of the country and minority groups to enrich the process. That strengthens transparency and hence accountability by increasing the range of perspectives considered. The media also has a vital role to play. Fact-based, impartial media is fundamentally important but is under threat in many parts of the world. The independence and plurality of the media should be encouraged, including the right of national, racial, religious and ethnic minorities to have their own media outlets. States can create a legal and social environment that encourages professional and ethical standards in journalism, and encourages freedom of the press.

IV. Intergovernmental bodies

26. Experience teaches us that atrocity prevention is most effective when national, regional and global actors work together. In the 2005 World Summit Outcome, Heads of State and Government identified the important role of regional and subregional arrangements in supporting atrocity prevention. States committed to utilizing regional and subregional arrangements to encourage and help each other to fulfil their primary responsibility to protect, including by helping to build sufficient capacity to protect their populations from atrocity crimes (see paras. 138-139); to utilizing consensual measures under Chapter VIII of the Charter of the United Nations to protect populations from atrocity crimes (para. 139); and to cooperating with the Security Council in the application of measures, when required. During the preparatory phase of the present report, States from all regions described enhanced cooperation between international and regional organizations as crucial to preventing atrocity crimes, because of the unique position regional actors have — both to mobilize collective action at the national level and to foster regional cooperation. They have the advantage of proximity and knowledge of the risks of each region and of the most appropriate ways to respond. When the Security Council grants mandates to regional or subregional organizations, it is important that it monitors their respect for international humanitarian, human rights and

refugee law in implementing such mandates and that the United Nations fully respect the Secretary-General's human rights due diligence policy on United Nations support to non-United Nations security forces.

27. During the three preparatory panels on the theme of the present report, States consistently called for more opportunities for dialogue at the United Nations. Many of their written submissions and interventions during the consultations for the report called for the inclusion of an item on the agenda of the General Assembly on the prevention of atrocity crimes and implementation of the responsibility to protect. I am of the view that this would strengthen the accountability of deliberations, demand deeper consideration of the difficult issues raised in the context of preventing atrocity crimes and lay the foundations that are needed to ensure that the United Nations moves decisively from principle to practice. To ensure that there are more opportunities for free-flowing discussion, the innovative practice of holding informal thematic panels, introduced in the preparation of the present report, should be continued, complementing a yearly formal interactive debate. General Assembly discussions on country situations of concern can also address the risks of atrocity crimes and measures to mitigate them.[9]

28. The Security Council has a specific responsibility to take timely and decisive action to protect populations by preventing atrocity crimes. It also has the authority, under article 13 (b) of the Rome Statute, to refer situations of concern to the Prosecutor of the International Criminal Court and thus extend the jurisdiction of the Court. In practice, however, the deliberations of the Council sometimes fail to generate solutions, including in situations where there is a serious risk of atrocity crimes, or when they are already being committed. The expectation of the international community that the Council will take timely and decisive action to protect populations from atrocity crimes has therefore not yet been fulfilled. In response, States have put forward different proposals for strengthening the effectiveness and transparency of the working methods of the Council as it responds to the threat and commission of atrocity crimes. Those proposals include calls for the Council to adopt a voluntary code of conduct, including veto restraint, by the cross-regional Accountability, Coherence and Transparency Group, which enjoys the support of 110 Member States (see A/70/621-S/2015/978). In addition, France and Mexico have issued a political declaration on suspension of the veto in situations where atrocity crimes are committed, which is supported by 93 Member States.

29. Member States are increasingly demanding that the Security Council be held accountable to those in whose name it acts: the membership as a whole. At the same time, the Council confronts ever greater challenges relating to the implementation of its responsibility to prevent atrocity crimes. The United Nations system as a whole, including its Member States, should learn from experience and strive to improve implementation, using all available tools. During the consultations held for the preparation of the present report, a number of Member States suggested that this could be achieved by holding an annual thematic debate on the responsibility to protect and atrocity prevention, providing States with an opportunity to review the actions of the Council in a holistic way, consider practical operational matters and identify future priorities. During the preparatory activities for the present report, many States expressed support for a regular thematic debate on this subject, indicating that it should involve members of the Security Council, other interested Member States, my Special Advisers on the Prevention of Genocide and on the

[9] That includes accountability for past violations. For example, in resolution 71/248, the General Assembly established the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law committed in the Syrian Arab Republic since March 2011.

Responsibility to Protect, and the other main protection actors. There could also be an informal or working-level committee for Member States, including Council members, to meet more regularly to facilitate the sort of frank exchange of perspectives and information necessary to improve effectiveness over the long term.

30. Collective action to protect populations is likely to make a decisive contribution only if it is supported by a viable political strategy and adequate means. The Security Council has a responsibility to ensure that its mandates are tailored to the context concerned and that peace operations are adequately resourced. Mandates to protect populations must be strong and achievable, based on clear analysis and a political strategy. It is a basic principle of accountability that those authorized to undertake actions on behalf of others are accountable to those that authorize them. That means ensuring that States and intergovernmental organizations that are assigned responsibility for implementing Security Council mandates are accountable to the Council. The Council should continue to monitor implementation of its decisions carefully to ensure full respect for the Charter of the United Nations and the specific provisions of its mandates. It might consider issuing mandates that include a time limitation, or request progress reports from States and intergovernmental organizations authorized to implement its mandates.

31. Collective action to prevent atrocity crimes must be well-crafted and based on impartial and evidence-based assessments. Decisions require careful assessment of the situation, a review of the likely consequences of action and inaction and an assessment of the most effective and appropriate strategy for achieving our collective goals. It is therefore important that assessments are conducted fairly, prudently and professionally, without political interference or double standards. Through implementation of the Human Rights Up Front initiative, the United Nations system has endeavoured to meet those expectations.

32. The Economic and Social Council also has an important role to play in supporting atrocity prevention and strengthening accountability. The prevention of atrocity crimes is fundamental to achieving the Sustainable Development Goals, especially Goal 16 on the promotion of just, peaceful and inclusive societies. Goal 16 requires determined action to significantly reduce all forms of violence, which implies action to reduce the risk of the most systematic and destructive form of collective violence, namely atrocity crimes. It is important, therefore, to examine how economic and social cooperation, including development assistance, can be better utilized to support the strengthening of national inhibitors of atrocity crimes, by which I mean particular capacities, institutions and actors that help to prevent escalation from risk to imminent crisis (see A/68/947-S/2014/449). In particular, targets 16.3 and 16.a of the Sustainable Development Goals reinforce the need to promote the rule of law, ensure equal access to justice and strengthen national capacity to prevent conflict, which are all key inhibitors of atrocity crimes.

33. The Human Rights Council makes important contributions to the prevention of atrocity crimes. The Council, the human rights treaty bodies and the special procedure mandate holders encourage the accountability of States to their peers for compliance with international human rights and humanitarian law. Those bodies help States to evaluate their own situations and contribute by making recommendations to other States as to how they might meet their obligations. They also add an additional layer of transparency to identification of the potential risks of atrocity crimes through their monitoring role. States benefit from the insights offered by the Special Rapporteurs, who are independent experts, since they help to identify issues requiring action, recommend steps that might be taken and provide support for capacity-building. States should therefore provide the special procedure mandate holders with open invitations to visit and assess their national situation, engage openly and frankly in dialogue and give serious consideration to

implementing any resulting recommendations. In addition, the engagement of both the special procedure mandate holders and independent experts of the human rights treaty bodies provides a vital mechanism for engaging in open dialogue with States on human rights concerns and the risks of atrocity crimes. Several States have proposed that my Special Advisers on the Prevention of Genocide and on the Responsibility to Protect brief the Human Rights Council more regularly on situations that could give rise to heightened risks of atrocity crimes.

34. The universal periodic review of the Human Rights Council is especially well placed to support efforts to prevent atrocity crimes. In 2006, in its resolution 60/251, the General Assembly decided that the Human Rights Council should address situations of violations of human rights, including gross and systematic violations, and make recommendations thereon, and should also promote the effective coordination and the mainstreaming of human rights within the United Nations system. The Human Rights Council later emphasized that the review should also take into account applicable international humanitarian law.[10] In the annex to its resolution 5/1, the Human Rights Council established that the basis of the universal periodic review would include, among other elements, human rights instruments to which the State is a party and voluntary pledges and commitments made by States, such as the 2005 commitment to the responsibility to protect. With a mandate that clearly includes considerations directly relevant to atrocity prevention, the universal periodic review could be better utilized to facilitate more systematic reflection on the risks of atrocity crimes, encourage States to develop plans, policies and strategies to address longer-term risks and mobilize international support for national initiatives to address them. The universal periodic review can support fulfilment of national responsibilities under pillars one and two of the responsibility to protect through its focus on actionable recommendations and their implementation and follow-up. Introducing an atrocity prevention lens to it would help to ensure that underlying risks are identified early, facilitate remedial action by national Governments and promote international assistance, including technical assistance, where needed.

35. The universal periodic review could be better utilized to support atrocity prevention through the adoption of four simple steps:

(a) First, the inclusion of risk assessments and preventive measures for atrocity crimes in the preparatory materials. In preparing for their review, States could conduct consultations, which could include a review of national assessments of atrocity crime risk and resilience, reports from relevant institutions, including national human rights mechanisms and parliamentary processes, and consultations with civil society. Preparatory material provided by the United Nations could include information about risk and resilience assessments and prevention activities. Additionally, information provided by national stakeholders could include an analysis of risk factors for atrocity crimes and a review of the capacities, initiatives or policies developed by the State in that regard;

(b) Second, the inclusion of atrocity prevention issues in the peer-to-peer dialogue. There are several ways in which the dialogue itself could be utilized to address considerations of atrocity prevention. States could pay attention to issues related to atrocity prevention in the questions and recommendations that they provide. Countries under review might also reflect on considerations of atrocity prevention in their oral presentations and replies;

(c) Third, ensuring that information about and discussion of risks and preventive measures for atrocity crimes are adequately reflected in the outcome

[10] See Human Rights Council resolution 5/1, annex.

document and its actionable recommendations. States under review should be strongly encouraged to accept recommendations that can help them to close any gaps in their strategic and operational efforts to prevent atrocity crimes;

(d) Fourth, ensuring that, where relevant and appropriate, other States provide the necessary assistance to help countries under stress prevent atrocity crimes and protect their populations. As mentioned earlier, pillar two of the responsibility to protect gives States a responsibility to assist one another to fulfil their primary responsibility to protect. United Nations field operations, the Office of the United Nations High Commissioner for Human Rights, my Special Advisers on Genocide Prevention and on the Responsibility to Protect and other relevant entities should offer support for the implementation of recommendations and the adoption of practical steps to strengthen the mechanisms for the prevention of atrocity crimes.

36. Most regions now have their own regional or subregional human rights mechanisms. They should also be utilized to support atrocity prevention. While each is distinctive, taking account of the relevant regional specificities, regional and subregional human rights mechanisms can help to prevent atrocity crimes by identifying potential risks, recommending actions and supporting capacity-building. Some mechanisms might also receive and consider complaints from individuals or groups, or review relevant national legislation. States and the regional and subregional human rights mechanisms should actively consider ways of utilizing those capacities to strengthen and support national accountability for the prevention of atrocity crimes.

37. States might also consider utilizing other forms of peer-to-peer exchange to strengthen their efforts for atrocity prevention and open up opportunities for mutual support. Focal points provide a valuable opportunity for peer-to-peer learning and engagement. Fifty-nine States, the members of the Global Network of the Responsibility to Protect Focal Points, have appointed a national focal point for the responsibility to protect, to coordinate national implementation and to facilitate cooperation with other States and international actors. The member States of the International Conference on the Great Lakes Region and the Latin American Network for Genocide and Mass Atrocity Prevention have also taken significant initiatives in that regard. I welcome plans to develop a manual for national focal points that will assist them in their work and help other States to take the decision to appoint their own focal point. Focal points can continue using their deliberations to report on their activities, foster practical dialogue on implementation and discuss ways to assist each other in the design and implementation of prevention activities.

V. United Nations system

38. In the 2005 World Summit Outcome, Heads of State and Government emphasized that the responsibility of the international community to protect populations from atrocity crimes should be exercised through the United Nations. We must continue to mainstream the responsibility to protect across the whole United Nations system, so that all the tools and capacities we have can be brought to bear to prevent atrocity crimes and protect vulnerable populations. To achieve that, we must strengthen the cooperation of United Nations entities on atrocity prevention and improve our own internal accountability for it.

39. United Nations country teams can play a role in supporting States to strengthen their resilience to atrocity crimes. Their programmes in support of good governance, the rule of law, education, sustainable development and women's and children's rights, among others, all contribute to atrocity prevention. United Nations

peace operations must have the capacities and political support that they need to implement protection mandates and the appropriate measures in place to review their performance, when necessary. We must also strengthen our support for training and lesson learning, to ensure that peacekeepers have the skills and knowledge they need. Member States can contribute by committing themselves to the Kigali Principles on the Protection of Civilians. All United Nations offices must implement the human rights due diligence policy, in which measures are set out that should be taken to ensure that any support provided to non-United Nations forces is consistent with the purposes and principles of the Charter of the United Nations and with the responsibility to respect, promote and encourage respect for international humanitarian, human rights and refugee law.

40. I have a responsibility to tell the Security Council what it needs to know. To that end, and when appropriate, I will bring to its attention any matter that may threaten the maintenance of international peace and security, including situations where there is a risk of atrocity crimes.[11] In accordance with its responsibilities under the responsibility to protect principle and to help the Council in deciding which measures to take to successfully protect populations, I will seek to ensure that Secretariat briefings on country situations systematically include an analysis of the risks of atrocity crimes.[12]

41. In practice, it can sometimes be difficult to assure direct accountability to populations that are under stress owing to the risk of atrocity crimes. In such situations, those with mandates for protection must represent the views and interests of vulnerable populations. That includes, but is not limited to, the United Nations High Commissioners for Human Rights and for Refugees, the heads of United Nations field presences, my Special Representatives on Sexual Violence in Conflict and for Children and Armed Conflict and my Special Advisers on the Prevention of Genocide and on the Responsibility to Protect. United Nations field presences have a responsibility to speak on behalf of the vulnerable and raise protection concerns, in public, if judged necessary, a responsibility reinforced by the Human Rights Up Front initiative. When they do so, they speak with my full support, but speaking out is only part of what is needed. Individual States and intergovernmental bodies must be prepared to listen. It is imperative that the Security Council, the Human Rights Council and the General Assembly provide greater opportunities for those who speak on behalf of the vulnerable to relay their concerns, and those opportunities should be extended beyond the United Nations to others, such as humanitarian and civil society organizations that have field presences in affected regions.

42. My Special Advisers on the Prevention of Genocide and on the Responsibility to Protect continue to play an important role in supporting Member States, regional and subregional arrangements and the United Nations system to fulfil their responsibility to protect. Their work has been recognized by the Security Council and the Human Rights Council.[13] During the consultations undertaken in the preparation of the present report, States emphasized the importance of having both my Special Advisers on the Prevention of Genocide and on the Responsibility to Protect brief the Security Council on issues of concern.

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[11] The Security Council has recognized that the targeting of civilians and other flagrant and systematic violations of international human rights and humanitarian law may constitute a threat to international peace and security (see resolution 1674 (2006), para. 26).

[12] The informal expert working groups on country-specific situations established pursuant to Security Council resolution 2242 (2015) could consider information about atrocity crime risks, including widespread or systematic sexual and gender-based violence, confronting women and girls, as is the practice in the Security Council informal expert group on the protection of civilians.

[13] See, for example, Security Council resolutions 2171 (2014) and 2150 (2014) and Human Rights Council resolution 33/19.

VI. Conclusions and recommendations

43. **There remains too much of a gap between the solemn commitments and legal obligations of Member States and the actual lived experience of vulnerable populations. Our failure to deliver on what we have promised by protecting populations from atrocity crimes shames us all. We must do better. In the present report, I have explained how practical action on the prevention of atrocity crimes must be built on the bonds of trust and transparency forged by accountability. As we continue moving from the normative and political development of the responsibility to protect towards practical implementation, we must bear the duty of accountability in mind. There are many things that States, the United Nations and intergovernmental mechanisms can and should do to strengthen atrocity prevention, but let us prioritize five simple, practical steps.**

44. **States have the primary responsibility to protect their populations from atrocity crimes. All Member States can:**

(a) **Appoint a senior official to serve as a national focal point for the responsibility to protect to coordinate national activities, share good practices and cooperate on capacity-building;**

(b) **Sign, ratify and implement the key international treaties and protocols associated with the prohibition and prevention of atrocity crimes and the provision of assistance to their victims. Member States should also ensure that atrocity crimes and their incitement are criminalized by domestic law;**

(c) **Issue open invitations to the special procedures mandated by the Human Rights Council and include an assessment of the risks of atrocity crimes and the measures taken in their regular reporting to other human rights mechanisms, such as the universal periodic review and the relevant treaty bodies. States should accept the guidance and support contained in the recommendations of the human rights mechanisms and develop strategies for atrocity prevention accordingly;**

(d) **Conduct regular risk assessments and take the necessary action to reduce the risks of atrocity crimes, if identified. Assessments should include a review of whether and what kind of international support could strengthen national capacity. All assessments and associated action should include the participation of civil society, community actors, religious leaders and elders, women and youth;**

(e) **Establish domestic mechanisms to ensure that national authorities can be held accountable for acting upon their commitment to the responsibility to protect. That could be achieved through thematic parliamentary debates, permanent parliamentary working groups, annual reports by national human rights institutions or human rights ombudspersons, or other mechanisms, such as national committees for atrocity prevention.**

45. **There is a shared responsibility to protect held by all States and exercised both individually and collectively. States and intergovernmental mechanisms have responsibilities to assist States to fulfil their primary obligation and to adopt measures, when necessary, to protect populations from atrocity crimes. To be legitimate and sustainable, the exercise of international responsibility must be transparent and accountable. I recommend that States consider five initiatives designed to strengthen the accountability of international action:**

(a) Place a specific item on the prevention of atrocity crimes and the implementation of the responsibility to protect on the agenda of the General Assembly;

(b) Put the universal periodic review of the Human Rights Council to better use in preventing atrocity crimes by introducing a focus on the risk of atrocity crimes and on the actions and support needed to address them;

(c) Utilize the procedures available to ensure that States and regional and subregional organizations mandated to protect by the Security Council remain accountable to the Council;

(d) Consider options to promote reflection on the role of the Security Council in protecting populations from atrocity crimes;

(e) Further develop the opportunities provided by regional and subregional arrangements to evaluate the risk of atrocity crimes, review performance and promote the implementation of shared commitments.

46. **The responsibility to protect demands that all of us do what we can to prevent atrocity crimes and protect vulnerable populations. We should ask ourselves, as individuals, whether we are doing all that we can. The United Nations will:**

(a) Fully include atrocity prevention in the United Nations integrated prevention platform;

(b) Through my Special Advisers on the Prevention of Genocide and on the Responsibility to Protect, provide stronger evidence-based insights into the structural and operational measures that can be taken to prevent atrocities and support the provision of policy guidance for practitioners on the prevention of atrocities;

(c) Improve the coordination of United Nations entities to contribute more effectively to atrocity prevention;

(d) Continue to provide assessments to Member States on our collective efforts to implement the responsibility to protect.